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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/811,336	03/26/2004	Paul M. Harrison	LEAP:130US	1585

7590 12/28/2005

Robert P. Simpson, Esq.
Simpson & Simpson, PLLC
5555 Main Street
Williamsville, NY 14221-5406

EXAMINER

NGUYEN, THONG Q

ART UNIT	PAPER NUMBER
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2872

DATE MAILED: 12/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/811,336

Applicant(s)

HARRISON ET AL.

Examiner

Thong Q. Nguyen

Art Unit

2872

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 17 and 18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 14-16 is/are rejected.
- 7) ☒ Claim(s) 1-13 and 19-24 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4/6/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of invention I, claims 2-6, 9-13, 15-16 and 19-24 in the reply filed on Oct. 11, 2005 is acknowledged.

However, a complete search has resulted that the device as claimed in independent claim 1 is allowable with respect to the prior art, and thus claims 7-8 are now rejoined because they are dependent upon an allowable claim. Claims 17-18 are not rejoined because the device as claimed in independent claim 14 is rejected over the prior art as provided below. As a result, claims 1-16 and 19-24 are now examined in this Office action, and claims 17-18 have been withdrawn from further consideration as being directed to non-elected invention.

It is also suggested that applicant should amend the status indicator of each of claims 7 and 8 from "(Withdrawn)" to --(original)--.

Priority

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Drawings

3. The drawings contain nine sheets of figures 1-9 were received on 3/26/2004.

These drawings are objected by the examiner for the following reasons.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: *The reference "40" stated in section [0017] is not shown in at least one figure. Corrected*

drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: *The reference "13" shown in figure 2 is not mentioned in the specification.* Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

5. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because *reference character "47" has been used to designate both "a pin" and "an arm" as shown in figure 3*. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

6. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

7. The disclosure is objected to because of the following informalities: a) Page 4: section [0013], the incorporation of information as provided in the section is improper. Applicant should provide the serial number of the copending application; b) Page 5: line 34, "operating element 8 is" should be changed to --operating elements 8 are--; c) Page 6: line 31, "3" should be changed to --6-- (see line 6 of the page, for example); d) Page 8: line 8, "Fig. 5" should be changed to --Figs. 4--. There are still some grammatical and

idiomatic errors in the specification. Applicant should carefully proofread the specification. Appropriate correction is required.

Claim Objections

8. Claims 1-13 and 19-24 are objected to because of the following informalities.

Appropriate correction is required.

- a) In claim 1: on line 3, "end" should be changed to --ends--.
 - b) In claim 3: on line 2, "end" should be changed to --ends--.
 - c) In claim 12: on line 3, each of the features "the pin" and "the first gear wheel of the gear wheel arrangement" does not have a proper antecedent basis. Applicant should note that claim 9, not claim 10, recites a pin, and claim 5, not claim 4, recites the gear wheel arrangement has a first and second gear wheels. Should the feature "the pin" and "the first gear wheel" be changed to --a pin-- and --a first gear wheel--, respectively to avoid the problem of lacking a proper antecedent basis for the feature claimed?
 - d) In claim 13: on line 2, "an thereby" should be changed to --and thereby--, and "movement stage" should be changed to --movement of the stage--.
- It is also noted that on line 2 of the claim, the feature "the rod" does not have a proper antecedent basis. Applicant should note that non-elected claim 7 recites a rod. Should the mentioned terms be changed to --a rod-- to avoid the problem of lacking a proper antecedent basis for the feature claimed?
- e) In claim 19: on lines 2-3, the feature "the first gear wheel of the gear wheel arrangement" does not have a proper antecedent basis. Applicant should note

that claim 16, not claim 15, recites the gear wheel arrangement has a first and second gear wheels. Should the feature "the first gear wheel" be changed to --a first gear wheel-- to avoid the problem of lacking a proper antecedent basis for the feature claimed?

f) In claim 21: on line 2, "arm" should be changed to --arms--.

It is also noted that each of the features "the pin" and "the rod" appeared on lines 2 and 3, respectively, does not have a proper antecedent basis. Applicant should note that non-elected claim 17 recites a rod, and claim 19, not claim 15, defines a pin. Should the features "the pin" and "the rod" be changed to --a pin-- and --a rod--, respectively, to avoid the problem of lacking a proper antecedent basis for the feature claimed?

g) In claim 22: on line 1, the feature "the first arm" lacks a proper antecedent basis. Applicant should note that claim 21, not claim 19, defines a first arm. Should claim 22 be amended to depend upon claim 21 to avoid the problem of lacking a proper antecedent basis for the feature claimed?

h) In claim 23: each of the features "the second arm" (line 1) and "the first gear wheel of the gear wheel arrangement" (lines 3-4) lacks a proper antecedent basis. Applicant should note that claim 21, not claim 19, recites a second arm, and claim 16, not claim 19, recites a first and second gear wheels of the gear wheel arrangement. Should claim 23 be amended to depend upon claim 21 and "the first gear wheel" be changed to --a first gear wheel-- to avoid the problem of lacking a proper antecedent basis for the feature claimed?

i) In claim 24: on line 2, "an thereby" should be changed to --and thereby--, and "movement stage" should be changed to --movement of the stage--.

It is noted that each of the features "the rod" (line 2); "the adjustment screw" (line 3); "the microscope stand" (line 3) and "the adjustment stop" (line 4) lacks a proper antecedent basis. Should the term "the" in each of the mentioned features be changed to --a (or an)-- to avoid the problem of lacking a proper antecedent basis for the feature claimed?

j) The remaining claims are dependent upon the objected base claims and thus inherit the deficiencies thereof.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 14-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Clark (U.S. Patent No. 4,482,221).

Clark discloses a focus mechanism for a microscope. The mechanism as described in columns 2-5 and shown in figures 1-4 comprises the following features: at least one operating element (32, 34) attached to a first axle (26) of a focusing mechanism (24) for effective movement of a stage along an optical axis of the microscope (see column 2, lines 20-30, for example); an adjustable stop mechanism having a stop member (102), a slot (100), a lever (104) and their

supporting elements which stop mechanism in cooperating with the focusing mechanism limits the movement of the stage in the process of focusing (see columns 3, lines 35-52). The mechanism also comprises a gear wheel (28) formed on the first axle (26) which is engaged with a gear wheel arrangement (64) provided on a second axle 968). The gear wheel arrangement (64) comprises a first gear element (66) and a second gear element (70) wherein the first gear element (66) has its diameter larger than the diameter of the second gear element (70), and in a focusing operation, the gear (28) is engaged with the first gear element (66) and the second gear (70) is engaged with the gear rack 972) for moving the microscope stage. See column 4, lines 39-52, for example.

Allowable Subject Matter

11. Claims 1-13 would be allowable if rewritten or amended to overcome the objections under 35 U.S.C. 112 as set forth in this Office action.
12. Claims 19-24 would be allowable if rewritten to overcome the objections under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.
13. The following is a statement of reasons for the indication of allowable subject matter:
 - a) The device as claimed in claim 1 is patentable with respect to the prior art, in particular, the U.S. Patent Nos. 4,482,221 and 5,213,293 by the limitations related to the structure of the microscope stand for supporting the operating element in a microscope having a focusing device and an adjusting stop

mechanism for limiting the movement of the microscope stage. It is noted that a microscope having a focusing device and an adjusting stop mechanism is disclosed in the art as can be seen in the Patent 4,482,221 (see columns 2-5 and figures 1-4) and the use of a curved slot for allowing a movement of a bar in both horizontal and vertical directions is disclosed in the Patent No. 5,213,293 (see column 4 and figs. 5); however, the prior art does not disclose a microscope having a focusing device and an adjustable stop mechanism for limiting the movement of a microscope stage wherein the stand comprises an elongated slot provided at each side of the stand which allows a change of the position of the operating element of the focusing device in both horizontal and vertical directions as claimed.

b) The device as claimed in each dependent claims 19 and 21 is allowable with respect to the prior art, in particular, the U.S. Patent Nos. 4,482,221; 4,573,771 and 4,512,206 by the limitations related to the structure of the focusing device and the stop mechanism. It is noted that the use of a focus device and a stop mechanism is disclosed in the art as can be seen in the Patent No. 4,482,221 (see columns 2-5 and figs. 1-4) and the use of a pin on a block is disclosed in each of the Patent Nos. 4,573,771 and 4,512,206; however, the cited art does not disclose a rocker disposed on the second axle of a gear wheel arrangement wherein the rocker has a first arm and a second arm, the gear wheel arrangement has a pin mounted at the periphery of the first gear of the gear wheel arrangement as claimed.

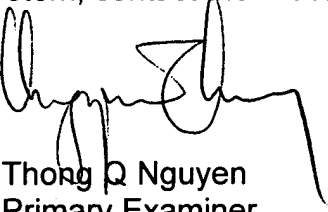
Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thong Q. Nguyen whose telephone number is (571) 272-2316. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew A. Dunn can be reached on (571) 272-2312. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Thong Q. Nguyen
Primary Examiner
Art Unit 2872
